

**THE DISTRICT OF COLUMBIA  
ALCOHOLIC BEVERAGE CONTROL BOARD**

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In the Matter of: )	
)	
S&A Deli, Inc. )	License No.: 093974
t/a Good Hope Deli & Market )	Case No.: 14-PRO-00018
)	Order No.: 2014-222
Application for a New )	
Retailer's Class B License )	
at premises )	
1736 Good Hope Road, S.E. )	
Washington, D.C. 20020 )	
_____ )	

**BEFORE:** Ruthanne Miller, Chairperson  
Nick Alberti, Member  
Donald Brooks, Member  
Herman Jones, Member  
Mike Silverstein, Member  
Hector Rodriguez, Member  
James Short, Member

**ALSO PRESENT:** S&A Deli, Inc., t/a Good Hope Deli & Market, Applicant

Barbara Clark, Chair, on behalf of Advisory Neighborhood Commission (ANC) Single Member District (SMD) 8A02

Martha Jenkins, General Counsel  
Alcoholic Beverage Regulation Administration

**ORDER DENYING MOTION FOR RECONSIDERATION**

This matter comes before the Alcoholic Beverage Control Board (Board) on the Application for a New Retailer's Class B License (Application) filed by S&A Deli, Inc., t/a Good Hope Deli & Market (Applicant). Notice of the Application was published in the District of Columbia (D.C.) Register on January 17, 2014. *D.C. Register*, Notice ID: 4720231 (Jan. 17, 2014). The notice informed the public that the last day to file a protest was on March 3, 2014. Id.

The Board received a protest letter from Chair Barbara Clark on February 28, 2014. In re S&A Deli, Inc., t/a Good Hope Deli & Market, Case No. 14-PRO-00018, Board Order No. 2014-128, 1 (D.C.A.B.C.B. Apr. 23, 2014). In accordance with D.C. Official Code § 25-602, the

Board dismissed the protest, because the protest was filed in Ms. Clark's personal capacity as a commissioner and did not reflect a formal action brought by the ANC within the protest period, as required by law. Id. at 2.

Subsequently, Chair Clark has filed a Motion for Reconsideration.

In her motion, Chair Clark argues that the Board should abide by the decision of its agent and accord her ANC standing to protest the Application. Standing is a threshold issue that must be maintained during the protest in order for the Board to hear the case. D.C. Official Code § 25-601. It is also well-settled that the issue of standing may be raised at any time during the protest process, and that the Board may reevaluate the standing of the parties *sua sponte*. In re Watergate Hotel Lessee, LLC, t/a Watergate Hotel, Case Number 13-PRO-00005, Board Order No. 2013-417, 16 (D.C.A.B.C.B. Oct. 2, 2013). Here, the Board is obligated by law to dismiss the protest based on the ANC and Chair Clark's failure to file a timely protest in accordance with § 25-602.<sup>1</sup>

Chair Clark further argues that the Board has not given her ANC's recommendations great weight. The Board's response to the ANC is that because a lawful protest has not been filed, the Board must presume that the Application is appropriate under § 25-311(a); therefore, the Board must treat the Application as unopposed. D.C. Official Code § 25-311(a). To do otherwise, would merely deprive the licensee of its constitutional right to due process under the law.

## ORDER

Therefore, based on the foregoing, the Board, on this 15th day of May 2014, hereby **DENIES** the Motion for Reconsideration. ABRA shall deliver copies of this Order to the Applicant and Chair Clark.

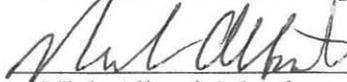
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<sup>1</sup> Chair Clark also states she was not aware of the laws at issue in this matter; however, that is not a factor which the Board may consider.

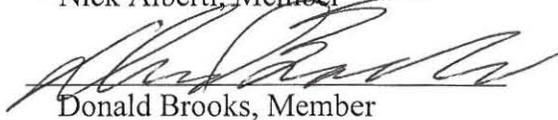
District of Columbia  
Alcoholic Beverage Control Board



Ruthanne Miller, Chairperson



Nick Alberti, Member

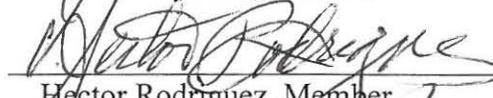


Donald Brooks, Member

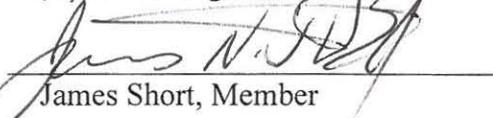
Herman Jones, Member



Mike Silverstein, Member



Hector Rodriguez, Member



James Short, Member

Pursuant to 23 DCMR § 1719.1 (April 2004), any party adversely affected may file a Motion for Reconsideration of this decision within ten (10) days of service of this Order with the Alcoholic Beverage Regulation Administration, Reeves Center, 2000 14th Street, N.W., 400S, Washington, D.C. 20009.

Also, pursuant to section 11 of the District of Columbia Administrative Procedure Act, Pub. L. 90-614, 82 Stat. 1209, District of Columbia Official Code § 2-510 (2001), and Rule 15 of the District of Columbia Court of Appeals, any party adversely affected has the right to appeal this Order by filing a petition for review, within thirty (30) days of the date of service of this Order, with the District of Columbia Court of Appeals, 500 Indiana Avenue, N.W., Washington, D.C. 20001. However, the timely filing of a Motion for Reconsideration pursuant to 23 DCMR § 1719.1 (April 2004) stays the time for filing a petition for review in the District of Columbia Court of Appeals until the Board rules on the motion. See D.C. App. Rule 15(b).